

BEFORE the HEARING EXAMINER for the
CITY of SAMMAMISH

DECISION

RECEIVED

FILE NUMBER: PSUB2014-00236
APPLICANT: PNW Holdings, LLC
ATTN: Carol Rozday
9675 SE 36th Street, Suite 105
Mercer island, WA 98040

FEB 18 2016

CITY OF SAMMAMISH

TYPE OF CASE: Preliminary subdivision (*Hennessy*)
STAFF RECOMMENDATION: Approve subject to conditions
EXAMINER DECISION: GRANT subject to revised conditions
DATE OF DECISION: February 16, 2016

INTRODUCTION ¹

PNW Holdings, LLC (PNW) seeks preliminary approval of *Hennessy*, a 15-lot single-family residential subdivision of a 6.0 acre site, owned by Hennessy and Hutten, which is zoned R-4. (Exhibits 2; 3 ²)

PNW filed a Base Land Use Application on October 24, 2014. (Exhibits 1, p. 2, Finding 2; 2) The Sammamish Department of Community Development (the Department) deemed the application to be complete on November 4, 2014. (Exhibit 8c)

The subject property is composed of two parcels which are located at 222 220th Avenue SE (a private road) and at 121 222nd Place SE (also a private road).

The Sammamish Hearing Examiner (Examiner) viewed the subject property on February 10, 2016.

The Examiner held an open record hearing on February 10, 2016. The Department gave notice of the hearing as required by the Sammamish Municipal Code (SMC). (Exhibit 8a)

¹ Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.
² Exhibit citations are provided for the reader's benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. While the Examiner considers all relevant documents in the record, typically only major documents are cited. The Examiner's Decision is based upon all documents in the record.

Subsection 20.05.100(1) SMC requires that decisions on preliminary subdivision applications be issued within 120 net review days after the application is found to be complete. The open record hearing was held on or about net review day 383. (Exhibit 1, p. 4, Finding 24) The SMC provides two potential remedies for an untimely decision: A time extension mutually agreed upon by the City and the applicant [SMC 20.05.100(2)] or written notice from the Department explaining why the deadline was not met [SMC 20.05.100(3)]. The Department explained the nature of and reasons for the delay to PNW in a February 1, 2016 e-mail. (Exhibit 21)

The following exhibits were entered into the hearing record during the hearing:

- Exhibit 1: Departmental Staff Report
- Exhibits 2 – 18: As enumerated in Exhibit 1
- Exhibit 19: Additional conditions recommended by the Department
- Exhibit 20: Easement, King County Recording Number 8705010733
- Exhibit 21: E-mail string, Davis-Rozday, February 1 and 2, 2016

The action taken herein and the requirements, limitations and/or conditions imposed by this decision are, to the best of the Examiner's knowledge or belief, only such as are lawful and within the authority of the Examiner to take pursuant to applicable law and policy.

FINDINGS OF FACT

1. The subject property is composed of two legally separate parcels, Parcels A and B, each containing a single-family residence and accessory buildings:
 - A. Parcel A is essentially the west half of the site. It is or was owned by Hutten.³ Its King County Parcel Number is 3325069036. (Exhibits 2; 3)

Parcel A is a rectangle (330 feet east to west by 270 feet north to south) which is connected to SE 4th Street by a 30 foot wide by 682 foot long panhandle extending to the south from the southwest corner of the rectangle. (Exhibit 3)

The panhandle is signed as 220th Avenue SE, but it is not a public right-of-way. A 1987 easement for roadway and utilities (King County Recording Number 8705010733) encumbers the panhandle to the benefit of the owner of the acreage parcel immediately to the south of Parcel A (Gill). The Gill Easement provides that the "using parties shall share equally in reasonable maintenance of said roadway and utility easement." (Exhibits 3; 20)

³ The question of whether title has passed to PNW was not discussed during the hearing. Since the application is well over one year old, it may well be that title to Parcels A and B has been transferred. Whether or not it has is immaterial to the outcome: Land use entitlements run with the land.

(source of quote)) The Gill parcel contains two single-family residences. (Exhibit 15; testimony)

There is a parcel between the Gill parcel and SE 4th Street which also borders the east side of the panhandle. That parcel has no right to use the panhandle; it has its own driveway to SE 4th Street which parallels the panhandle a few feet to its east. (Exhibits 3, Sheet 1; 15; testimony)

A separate 1959 road and utilities easement (King County Recording Number 5930135) encumbers the west 30 feet of Parcel A to the benefit of the two acreage parcels to the north of Parcel A giving them access to SE 4th Street over Parcel A, including the panhandle. (Exhibit 3) The parcels to the north of Parcel A are owned by Elser who at one time was a participant in the present application. (Exhibit 2; testimony) A Boundary Line Adjustment (BLA) between the southerly Elser parcel and Parcel A (BLA2014-00247) shifted the common boundary between those parcels 33 feet to the north. One condition of that BLA is that PNW provide a public water connection to the ELSER property when the subject property is developed. That BLA was approved and has been recorded.⁴ (Exhibits 1, p. 2, Finding 1; 3) Elser dropped out of the preliminary subdivision after the BLA. Elser and PNW have an agreement under which Elser will relinquish his right to use the easement across Parcel A upon development of the public street system within *Hennessy*. The plat design includes a public street stub to the south line of the Elser property where the current easement and driveway are located. (Exhibits 3, Sheet 1; 15; testimony)

The Parcel A panhandle and easements contain a rather rudimentary road which serves at least four parcels, the Gill parcel to the south, Parcel A, and the Elser parcels to the north. (Exhibit 15; testimony)

- B. Parcel B is essentially the east half of the site. It is or was owned by Hennessy. Its King County Parcel Number is 3325069039. (Exhibits 2; 3)

Parcel B is also a rectangle (333 feet east to west by 452 feet north to south) which is connected to SE 4th Street by a 30 foot wide easement signed as 222nd Place SE, a private road. The 222nd Place SE easement extends for approximately 500 feet north from SE 4th Street on a more-or-less south-southeast to north-northwest alignment to the southeast corner of Parcel B. The easement then turns essentially due north and, centered on the east line of Parcel B, continues north for some 845 feet to its terminus. Thus the 222nd Place SE easement extends some 400± feet beyond the north boundary of the subject property. Leth

⁴ Exhibit 3 indicates that an existing fence along the east line of the Elser property is some four (4) feet east of the surveyed boundary. The owner of the parcel east of Elser (Leth) testified during the hearing. Leth expressed concern that the development not seek to take any of his property. After receiving assurance from PNW that it did not intend to claim adverse possession to the fence line, Leth stated that his concern had been satisfied. (Testimony)

owns the approximate three acres immediately north of Parcel B. (Exhibit 3, Sheets 1 and 2; testimony)

The 222nd Place SE easement contains a more-or-less one lane paved road extending north from SE 4th Street to the southeast corner of the Leth parcel. 222nd Place SE serves at least eight parcels, including Parcel B and the Leth parcel. (Exhibit 15; testimony)

2. The body of the subject property is bordered on the north by the Elser and Leth parcels, across the 222nd Place SE easement to the east by an acreage parcel containing a single-family residence, to the south by acreage parcels containing single-family residences, and to the west by the eight-lot *Washington Park Estates* subdivision which was recently approved for re-division into 32 single-family residential lots under the name *Brixton*. Most of the panhandle is bordered on the west by the *Pine Meadows* subdivision whose lots access SE 4th Street via 218th Place SE. The subject property presently has no frontage on an open, constructed, and maintained public street other than where the 30-foot wide panhandle touches SE 4th Street. When *Brixton* is recorded, a 50-foot wide public street right-of-way stub will abut the west edge of Parcel A, providing access through *Brixton* to 218th Avenue SE. (Exhibits 1; 3, Sheets 2 and 3; 15; 16; 17)
3. The subject property “generally slopes from east and west to a central low valley/draw which slopes off to the east and north.” (Exhibit 4, p. 6) The subject property has lawns and landscaped areas around the two residences and groves of trees on the north and south ends of Parcel B. (Exhibits 3, Sheet 2; 4; 15) Each forested area contains a wetland; the northern wetland contains a seasonal, non-fish bearing (Type Ns) stream. (Exhibit 4)
4. The subject property is designated on the City’s adopted comprehensive plan and zoned R-4, residential development at a maximum density of four (4) dwelling units per acre. Adjacent properties to the west and north as well as the Gill property to the south are similarly designated and zoned. The area east and south of Parcel B is designated and zoned TC-C, the City’s Town Center zone. *Pine Meadows* and the property south of the Gill parcel represent an eastern tip of an extensive area designated and zoned R-6, residential development at a maximum density of six (6) dwelling units per acre. (Exhibits 1; 16)
5. PNW proposes to subdivide the subject property into 15 lots for single-family residences together with two sensitive area protection tracts (Tracts B and E), a recreation tract (Tract D), and a combination storm water control/recreation tract (Tract C). All existing structures will be removed. The panhandle will become Tract A and will continue to be used as access to the Gill property, as a route for the sewer main that will serve the subdivision, and as a pedestrian access from the development to SE 4th Street. (Exhibit 3; testimony) All lots will be served by an eastward extension of the street in *Brixton* which will terminate as a temporary cul-de-sac at the east edge of the subject property. A public street stub (220th Avenue SE) will extend to the north boundary of the development to provide access to the Elser properties (in exchange for which Elser will extinguish his right to the easement across the subject property). The easterly 30 feet of Parcel B will be

dedicated as public right-of-way, but no street improvement has been required within the dedication. (Exhibit 3)

The proposed density is 3.96 dwellings per net acre; the average lot size is 7,820 square feet (SF). Sensitive area protection Tracts B and E will cover 43,239 SF (\approx 1 acre), recreation Tract D will cover 15,190 SF (0.4 acres), and the combination storm water control/recreation Tract C will cover 8,610 SF (0.2 acres). (Exhibit 3) All proposed lots meet applicable zoning standards. (Exhibit 1)

6. The record contains evidence that appropriate provisions have been made for open space (Exhibit 3); drainage (Exhibits 3; 7b); streets and roads (Exhibits 1; 3; 7c; 18⁵); potable water supply (Exhibits 3; 12); sanitary wastes (Exhibits 3; 13); parks and recreation (Exhibits 1; 3); playgrounds (Exhibit 3); schools and schoolgrounds (Exhibits 1; 10); and safe walking conditions for children who walk to school (Exhibits 1; 3; 10; 19).⁶ The design does not employ alleys or other public ways. (Exhibit 3) The record contains no request for transit stops.
7. The City has had tree retention requirements since in or around 2005. (Official notice: Ordinance No. O2005-175) The City began an extensive update of those regulations by enactment of Emergency Ordinance No. O2014-375 which was in effect from October 14, 2014 through April 14, 2015. That ordinance was replaced by Emergency Ordinance No. O2015-390 which was in effect from April 14 through October 14, 2015. The process concluded with adoption of Ordinance No. O2015-395 which became effective on October 14, 2015, and which placed tree retention regulations in a newly created code chapter. (Official notice)

The proposed subdivision, having been deemed complete as of November 4, 2014, is subject to the tree retention provisions of Emergency Ordinance No. O2014-375.⁷ The proposal complies with the requirements of that ordinance. (Exhibits 1; 3, Sheets 6, 7, L-1, and L-2)

8. The major issues discussed during the hearing were access and the status of the panhandle.

As has been noted, the subdivision lacks public street access until *Brixton* is developed. PNW and the Department agreed that a condition needs to be imposed requiring that either *Brixton* be

⁵ Exhibit 18 is a request for and approval of a Variation to street pavement width standards. Public notice of the approval of that Variation was given as required by code. (Exhibit 8b) The record contains no indication that anyone timely appealed that action.

⁶ Heinonen's comment e-mail also expresses concern about the lack of pedestrian facilities along SE 4th Street east of the panhandle. (Exhibit 9, December 5, 2014, e-mail) A sidewalk is present on the north side of SE 4th Street from the corner at 218th Avenue SE east to the panhandle. (Exhibits 3 and 15) Since all public school children will be bussed and since the school bus stops are located at the 218th Avenue SE/SE 4th Street intersection (Exhibit 10), school children will have no need to walk east along SE 4th Street. Therefore, no legal justification exists to require this developer to install any pedestrian facilities along SE 4th Street. (The Examiner notes by official notice that the City is currently planning a major reconstruction of SE 4th Street from 218th Avenue SE to 228th Avenue SE.)

⁷ The two public comment letters (Heinonen and the Snoqualmie Tribe) asked that PNW be required to comply with Emergency Ordinance No. O2014-375. (Exhibit 9) PNW is required by law (vested rights regulations) to comply with that ordinance.

developed and recorded before *Hennessy* is recorded or that the public streets within *Brixton* be dedicated to and accepted by the City with the streets within it constructed to the same standard and extent as required for the streets within *Hennessy* (which would allow posting of a bond for installation of the final asphalt lift, for example).

Another consideration is curb return radii. The Interim Public Works Standards (PWS) require a curb return radius on each corner of every street intersection. [PWS.15.050, Table 1] PNW has included the required right-of-way curb return radii for both corners of the 220th Avenue SE/Road A intersection. (Exhibit 3, Sheet 1) Because of the proximity of 220th Avenue SE to the common boundary between *Hennessy* and *Brixton*, the western return radius encumbers a portion of *Brixton* Proposed Lot 18. The approved *Brixton* preliminary plat did not foresee that return radius. (Exhibit 17, Sheet P01)

Leth raised a valid concern: On paper it looks like the cul-de-sac bulb touches the edge of the paved road within the 222nd Place SE easement, thus ostensibly allowing travel between the public street and the private easement. PNW testified that it intended to construct the temporary cul-de-sac such that subdivision traffic could not make use of the private easement. That commitment satisfied Leth's concern. (Testimony)

PNW has no intention to allow the panhandle to be used on a regular basis by *Hennessy* traffic. It does need to make the panhandle accessible to Sammamish Plateau Water and Sewer District vehicles for required maintenance/repair of the sewer line that will be beneath it. And Gill will continue to have the right to use the panhandle as access to the Gill property. The *Hennessy* homeowners association (HOA) will own the panhandle (and the open space etc. tracts within the subdivision). Because of the language in the Gill Easement, the HOA and Gill will have to share maintenance costs. PNW suggested that the current street sign at the panhandle/SE 4th Street intersection might be removed and replaced with house number identifier sign(s) for the two Gill residences in order to discourage drivers from thinking that the panhandle provided access to anything other than the Gill property. In addition, CDD wants a condition placed on the face of the final plat stating that the panhandle cannot be dedicated in the future to serve as access for further development of any abutting properties. (Exhibit 19)

9. The Department's Staff Report (Exhibit 1) provides a detailed exposition of facts related to all criteria for preliminary subdivision approval. PNW concurred in full in the Findings, Conclusions, and Recommended Conditions set forth in that report except for one typographical correction, noted below. (Testimony) The record contains no challenge to the content of that report. Therefore, the Findings and Conclusions/Analysis within the Staff Report are incorporated herein as if set forth in full with the following exception:
 - A. Page 8, Recommended Condition 8: Both PNW and CDD agree that the cross-reference in this condition should be to Condition 9, not Condition 10. (Testimony)

10. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

LEGAL FRAMEWORK⁸

The Examiner is legally required to decide this case within the framework created by the following principles:

Authority

A preliminary subdivision is a Type 3 land use application. [SMC 20.05.020, Exhibit A] A Type 3 land use application requires an open record hearing before the Examiner. The Examiner makes a final decision on the application which is subject to the right of reconsideration and appeal to Superior Court. [SMC 20.05.020, 20.10.240, 20.10.250, and 20.10.260]

The Examiner's decision may be to grant or deny the application or appeal, or the examiner may grant the application or appeal with such conditions, modifications, and restrictions as the Examiner finds necessary to make the application or appeal compatible with the environment and carry out applicable state laws and regulations, including Chapter 43.21C RCW and the regulations, policies, objectives, and goals of the interim comprehensive plan or neighborhood plans, the development code, the subdivision code, and other official laws, policies and objectives of the City of Sammamish.

[SMC 20.10.070(2)]

Review Criteria

Section 20.10.200 SMC sets forth requirements applicable to all Examiner Decisions:

When the examiner renders a decision ..., he or she shall make and enter findings of fact and conclusions from the record that support the decision, said findings and conclusions shall set forth and demonstrate the manner in which the decision ... is consistent with, carries out, and helps implement applicable state laws and regulations and the regulations, policies, objectives, and goals of the interim comprehensive plan, the development code, and other official laws, policies, and objectives of the City of Sammamish, and that the recommendation or decision will not be unreasonably incompatible with or detrimental to affected properties and the general public.

Additional review criteria for preliminary subdivisions are set forth at SMC 20.10.220:

When the examiner makes a decision regarding an application for a proposed preliminary plat, the decision shall include additional findings as to whether:

⁸ Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

(1) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and

(2) The public use and interest will be served by the platting of such subdivision and dedication.

Vested Rights

Sammamish has enacted a vested rights provision.

Applications for Type 1, 2, 3 and 4 land use decisions, except those that seek variance from or exception to land use regulations and substantive and procedural SEPA decisions shall be considered under the zoning and other land use control ordinances in effect on the date a complete application is filed meeting all the requirements of this chapter. The department's issuance of a notice of complete application as provided in this chapter, or the failure of the department to provide such a notice as provided in this chapter, shall cause an application to be conclusively deemed to be vested as provided herein.

[SMC 20.05.070(1)] Therefore, this application is vested to the development regulations as they existed on November 4, 2014.

Standard of Review

The standard of review is preponderance of the evidence. The applicant has the burden of proof. [City of Sammamish Hearing Examiner Rule of Procedure 316(a)]

Scope of Consideration

The Examiner has considered: all of the evidence and testimony; applicable adopted laws, ordinances, plans, and policies; and the pleadings, positions, and arguments of the parties of record.

CONCLUSIONS OF LAW

1. Extensive, detailed conclusions regarding conformance with the criteria for approval are unnecessary since *Hennessy* is essentially an uncontested case.
2. Based upon all the evidence in the record, the Examiner concludes that *Hennessy* meets the considerations within SMC 20.10.200. All evidence demonstrates compliance with Comprehensive Plan policies and zoning code, subdivision code, and Environmentally Sensitive Areas regulations.

HEARING EXAMINER DECISION

RE: PSUB2014-00236 (*Hennessy*)

February 16, 2016

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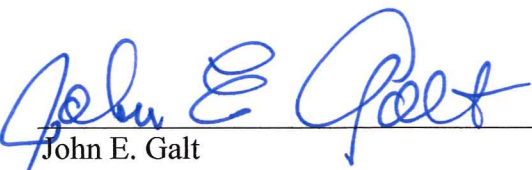
3. Given all the evidence in the record, the Examiner concludes that *Hennessy* complies with the review criteria of SMC 20.10.220. The proposed subdivision allows development at the density expected under the Comprehensive Plan, does not thwart future development of surrounding properties, makes appropriate provision for all items listed in that code section, and will serve the public use and interest.
4. The recommended conditions of approval as set forth in Exhibit 1 are reasonable, supported by the evidence, and capable of accomplishment with the following changes:
 - A. The typographical error discussed in Finding of Fact 9, above, must be fixed.
 - B. Recommended Condition 12. This condition needs to be expanded to assure that the cul-de-sac will not impinge on safe operation of the private road within the 222nd Place SE easement nor allow traffic to pass back and forth between the two.
 - C. Recommended Condition 42: The code citations in this condition could be confusing and/or misleading. In the first place, the cited sections no longer exist: They were repealed by Ordinance No. O2015-395. But perhaps even more important is that there were three different versions of those former code sections, only one of which governs the development of this subdivision. The citations will be revised to include specific reference to the emergency ordinance version which governs.
 - C. A new condition is needed to ensure that the subdivision has legal access to an open, constructed, and maintained city street at the time the subdivision is recorded. That condition also needs to take into account the curb return radius that impinges on *Brixton* Proposed Lot 18: If the required radius is not included when *Brixton* is recorded, the difficulties could be huge.
 - D. A new condition is needed to ensure that the panhandle is developed in such a fashion as to prevent its mis-use by *Hennessy* residents and the general public. The condition requested by CDD regarding restriction of future use of the panhandle is also appropriate (as it would appear that the area of the panhandle was counted in determining yield).
 - E. The two additional conditions contained in Exhibit 19 are generally supportable. The first item (regarding school bus pick-up locations) is incomplete in the sense that it requires a report but lacks any provision for action depending upon the content of that report. It is entirely likely that the report will find that adequate walking conditions to the school bus stop will exist after development of both *Brixton* and *Hennessy*. But if it didn't, the condition as proposed would not require any remedial action. The end result of the exercise must be safe walking conditions for children who walk to school bus stops. The condition will be augmented to so provide.

- F. Easement 5930135 as it pertains to the property being subdivided must be extinguished concurrent with recordation of the final plat: The public use and interest would clearly not be served by allowing a private easement to exist over (or under, depending on how one wanted to look at it) a dedicated public right-of-way. And that is exactly the situation that would exist were that easement not extinguished. When Road A and the stub to the north property line are completed and dedicated, the easement will be superfluous: The parcels to the north will have access to an open, constructed, and maintained City street. A condition will be added requiring extinguishment of the easement.
 - G. A few minor, non-substantive structure, grammar, and/or punctuation revisions to the Recommended Conditions will improve parallel construction, clarity, and flow within the conditions. Such changes will be made.
5. The Examiner doubts that he has authority to order removal of the 220th Avenue SE street sign. However, its removal would seem to be an excellent idea for all concerned. If the sign remains, Gill may find himself inundated with a lot of drivers thinking they can reach *Hennessy* via the panhandle. That would create, at a minimum, a nuisance for Gill. Replacing the street sign with a sign or signs giving the house numbers of the two Gill residences should provide sufficient guidance to the public without implying that the panhandle is a street. The Examiner urges the parties to seriously consider that change in signage.
6. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

DECISION

Based upon the preceding Findings of Fact and Conclusions of Law, and the testimony and evidence submitted at the open record hearing, the Examiner **GRANTS** preliminary subdivision approval for *Hennessy* **SUBJECT TO THE ATTACHED CONDITIONS**.

Decision issued February 16, 2016.



John E. Galt
Hearing Examiner

HEARING PARTICIPANTS ⁹

Maher Joudi
Ole Leth

Mona Davis

NOTICE of RIGHT of RECONSIDERATION

This Decision is final subject to the right of any party of record to file with the Examiner (in care of the City of Sammamish, ATTN: Lita Hachey, 801 228th Avenue SE, Sammamish, WA 98075) a written request for reconsideration within 10 calendar days following the issuance of this Decision in accordance with the procedures of SMC 20.10.260 and Hearing Examiner Rule of Procedure 504. Any request for reconsideration shall specify the error which forms the basis of the request. See SMC 20.10.260 and Hearing Examiner Rule of Procedure 504 for additional information and requirements regarding reconsideration.

A request for reconsideration is not a prerequisite to judicial review of this Decision. [SMC 20.10.260(3)]

NOTICE of RIGHT of JUDICIAL REVIEW

This Decision is final and conclusive subject to the right of review in Superior Court in accordance with the procedures of Chapter 36.70C RCW, the Land Use Petition Act. See Chapter 36.70C RCW and SMC 20.10.250 for additional information and requirements regarding judicial review.

The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation."

⁹ The official Parties of Record register is maintained by the City's Hearing Clerk.

CONDITIONS OF APPROVAL
HENNESSY
PSUB2014-00236

This Preliminary Subdivision is subject to compliance with all applicable provisions, requirements, and standards of the Sammamish Municipal Code, standards adopted pursuant thereto, and the following special conditions:

General Conditions:

1. Pursuant to RCW 58.17.170 the Plator shall comply with all county, state, and federal rules and regulations in effect on November 4, 2014, the vesting date of the subject application. However, if the legislative body finds that a change in conditions creates a serious threat to the public health or safety in the subdivision, future development may be subject to updated construction codes, including but not limited to the International Building Code and the International Fire Code, as amended.
2. Preliminary plat approval shall be null and void if any condition is not satisfied and the final plat is not recorded within the approval period of 60 months (5 years) as required by SMC Chapter 19A.12.020, provided Plator may file for an extension as permitted by code.
3. Exhibit 3 is the approved preliminary plat (and supporting plans). Revisions to approved preliminary subdivisions are subject to the provisions of SMC 19A.12.040.
4. For the purpose of ensuring compliance with all conditions of approval and the standard requirements of the SMC, the Plator shall provide financial guarantees in conformance with SMC Chapter 27A, and PWS Chapter 10.050(K). All improvements required pursuant to the PW standards, SMC, or other applicable regulations, must be installed and approved, or bonded as specified for plats in SMC 19A.16.
5. The Plator shall comply with the payment of street impact fees in accordance to City of Sammamish Ordinance No. O2006-208.
6. A final mitigation plan shall be provided for city review as part of the site construction application process. This mitigation plan shall include critical area fencing and signage consistent with requirements in SMC Chapter 21A.50.170 and shall be based on the Critical Area Report that was prepared by Sewell Wetland Consulting, Inc. and dated July 11, 2014. The final mitigation plan shall include plan implementation details, a monitoring and maintenance protocol, performance standards, and a contingency plan. In addition, documentation must be provided for City Public Works review that demonstrates how hydrology will be maintained to on-site, and applicable off-site, wetlands and streams.

7. A bond quantity worksheet must also be provided and, after approved by the City, shall be the basis of a performance bond that must be posted with the City to ensure that mitigation is installed and successfully performs.

Prior to City Acceptance of Improvements:

8. The internal plat roads serving more than four dwelling units shall be consistent with the local road standards in accordance with the *Interim Public Works Standards* except as noted in Condition 9 below. Further modifications may be applied based on engineering judgment during final engineering review.
9. A future road connection stub shall be made to connect to tax parcel 3325069099. Associated Road A (as depicted on the preliminary plat) shall be dedicated as public right-of-way in accordance with the approved plans. This road extension shall be consistent with the approved variation from local road design standards dated February 27, 2015.
10. The proposed vault shall be permitted under separate permit and shall include buoyancy analysis and additional test pits completed during the wet season.
11. Illumination shall be provided in the plat consistent with the City's standards for average foot candles and uniformity for a local road. Luminaires shall be full cut-off and LED. Pole type and style shall be approved by Public Works. All illumination shall be fully installed or as approved by the City Engineer.
12. The temporary cul-de-sac shall meet the requirements for fire turnaround for access and shall be approved by the Fire Marshal. The temporary cul-de-sac shall be constructed so as to: not impinge on the safe use of the private road within the 222nd Place SE easement; and not allow traffic to pass between the cul-de-sac and the easement road.
13. Appropriate sidewalk and road transition from all proposed plat roads to all existing roads shall be designed and approved consistent with AASHTO standards as part of the site development permit.
14. Drainage plans, Technical Information Reports, and analysis shall comply with the 2009 King County Surface Water Design Manual (KCSWDM), the City of Sammamish Addendum to the 2009 KCSWDM, and the City of Sammamish *Stormwater Management Comprehensive Plan*.
15. Prior to acceptance into the Maintenance and Defect period, the storm drain system shall be jetted, cleaned, and vactored and the system shall be televisioned for inspection.
16. Prior to acceptance in the Maintenance and Defect period, project close-out documents including as-builts and final corrected TIR shall be submitted to Public Works for approval.

17. The Platlor shall purchase from the City and install drain markers (“*Only Rain down the Drain*”) on each catch basin within the plat. Installation instructions are provided with drain markers.
18. Bollards (at least some of which shall be removable for emergency and/or sewer service personnel access) and/or a locking gate providing the same level of vehicle use prevention (but allowing pedestrian passage) shall be installed to prevent regular use of the utility easement within Proposed Tract A between the internal street sidewalk and the north end of the panhandle. The bollards shall be placed at or near the back of the sidewalk at the north end and at or near the south line, projected across the easement, of Proposed Lot 1.

Concurrent with or Prior to Final Plat:

19. The proposed subdivision of *Brixton* (PSUB2015-00111) shall have been recorded with its internal public streets completed (except that the final asphalt lift may have been bonded for) OR the internal public streets in the proposed subdivision of *Brixton* (PSUB2015-00111) between 218th Avenue SE and the west end of the internal street within *Hennessy* shall have been completed (except that the final asphalt lift may have been or may be bonded for) and shall have been dedicated to and accepted by the City or shall be dedicated to the City concurrent with dedication of the streets within *Hennessy*. With respect to either option, the right-of-way curb return radius on the west side of the 220th Avenue SE/Road A intersection that encumbers the southeast corner of *Brixton* Proposed Lot 18 shall be included in the dedication.
20. Easement 5930135 to the extent it encumbers the property being subdivided shall be extinguished.
21. The Platlor shall re-evaluate school bus pick-up locations with the Lake Washington School District after the *Brixton* (PSUB2015-00111) right-of-way dedication and shall provide evidence to the City indicating where school children living within *Hennessy* will be picked-up by school busses. If there are no sidewalks or there are gaps within the sidewalks between the internal plat streets and the bus pick-up location(s), the Platlor shall provide a safe walking facility to those pick-up locations; PROVIDED, that further improvement of the road/path within the panhandle is not required under this condition to provide a safe walking condition.
22. 30-feet of right-of-way shall be dedicated on the east property boundary to facilitate future road extension and connection.
23. 5-feet of right-of-way shall be dedicated on the south property boundary along the frontage with SE 4th Street.

24. Driveway aprons within the rights-of-way shall be completed prior to the final plat. Any joint use driveway shall be bonded for or constructed under the Site Development Permit.
25. At a minimum, all stormwater facilities shall be constructed and online and operational. This includes construction of road ATB, curb, gutter, stormwater conveyance system, water quality treatment systems, and stormwater pond. Final lift of asphalt may be bonded unless otherwise directed by Public Works.
26. Provide evidence that the property to the north (tax parcel 3325069099) has been hooked up to public water supply.
27. All new signs required in the public rights-of-way must be installed by the City of Sammamish Public Works Department or at the direction of the City of Sammamish Traffic Engineer. Procurement and installation shall be paid for by the Platator. Contractor shall contact the Public Works Inspector to initiate signage installation a minimum of SIX WEEKS PRIOR TO FINAL PLAT. Temporary street signs may be required for internal plat roads for emergency vehicle access. Any "No parking" signs shall be installed prior to final plat. "No Parking – Fire Lane" signs shall be permanently installed. No parking signs shall be required on all proposed street and private roads with clear widths of 20-feet or less.
28. Illumination shall be fully installed or as approved by the City Engineer.
29. A licensed surveyor shall survey and stake all storm drain facilities and conveyance lines with associated easements and dedications not located within the public rights-of-way. Public Works Inspector shall inspect and approve locations prior to final plat and easement recording.
30. Pursuant to Chapter 21A.105 SMC, fifty percent of the school impact fees (except for the first two building permits submitted to the City), plus an administrative fee, shall be paid.
31. Soil amendments shall be provided or bonded for in all common areas of the plat consistent with the requirements of the *2009 King County Surface Water Design Manual City of Sammamish Addendum*.
32. A Public Works performance bond shall be posted to the City consistent with the *2009 King County Surface Water Design Manual*.
33. Any off-site improvements shall be fully constructed or bonded for as allowed in SMC Chapter 27A and PWS Chapter 10.050(K).

Conditions to appear on the face of the Final Plat (italicized text shall be included verbatim):

34. *Metal products such as galvanized steel, copper, or zinc shall not be used in all building roofs, flashing, gutters, or downspouts unless they are treated to prevent metal leaching and sealed such that contact with storm water is prevented.*
35. *Unless directed to individual lot flow control BMPs, all building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain system as shown on the approved plat Site Development Permit on file with the City of Sammamish. The connection to the storm system shall be through a perforated tightline in accordance with the 2009 King County Surface Water Design Manual. The approved Site Development Permit shall be submitted with the application for any building permit. All connections of the drains shall be constructed and approved prior to final building inspection approval.*
36. *Maintenance of all landscaping along the internal plat road shall be the responsibility of the Homeowners Association. Under no circumstances shall the City bear any maintenance responsibilities for landscaping created by the plat.*
37. *Future road extension of Road A [fill in road name at final plat] to the east with acceptable road improvements shall automatically release easements associated with the temporary cul-de-sac. At such time, it will be the responsibility of the future developer to the east to remove the temporary easement and turnaround and install restoration and improvements.*
38. *Maintenance of landscaping along the stormwater pond perimeter, other than the interior pond embankments, shall be the responsibility of the Homeowners Association.*
39. *All landscaped areas of the plat and individual lots shall include a minimum of 8-inches of composted soil amendment atop a minimum of 4-inches scarified soil.*
40. *Maintenance of illumination along all local and private roads shall be the responsibility of the Homeowners Association or jointly shared by the owners of the development.*
41. *Covenant and easement language pertaining to individual lot and tracts with flow control BMPs shall be shown on the face of the final plat. Public Works shall approve the specific language prior to final plat.*
42. *Any Surface Water Management Facilities required for this subdivision shall be contained within a separate tract of land and shall be dedicated or an easement provided to the City of Sammamish for inspection, maintenance, operation, repair and replacement. Language to this effect shall be shown on the face of the final plat.*
43. *Individual lot flow control BMPs, in accordance to the 2009 King County Surface Water Design Manual, shall be provided with each single family residential building permit unless otherwise incorporated into the subdivision site development plans.*

44. *Illicit discharge of stormwater pollutants from pressure washing, car washing, and other routine maintenance of household appurtenances such as siding, roof, and windows shall be prevented from entering the storm drain system. Measures such as directing water to a green, vegetated area or covering the downstream catch basins shall be required and enforced pursuant to SMC Chapter 13.30.020.*
45. *Trees retained and replaced pursuant to SMC Chapter 21A.35 as the same existed during the term of effectiveness of Ordinance No. O2014-375 shall be identified on the face of the final plat for retention. Trees shall be tagged in the field and referenced on the face of the final plat with the applicable tag number.*
46. *Trees identified on the face of this plat have been retained pursuant to the provisions of SMC Chapter 21A.35 as the same existed during the term of effectiveness of Ordinance No. O2014-375 (hereinafter referred to as "former"). Retained trees are subject to the tree protection standards of former SMC 21A.35.230. Removal of these trees is prohibited unless the tree is removed to prevent imminent danger or hazard to persons or property, and may be subject to a clearing and grading permit approved by the City of Sammamish. Trees removed subject to this provision shall be replaced in compliance with former SMC 21A.35.240.*
47. *No lot or portion of a lot shall be subdivided and sold, or resold, or its ownership changed or transferred in violation of applicable city, county, state, or federal standards, rules, regulations or laws.*
48. *The Plator shall comply with RCW 58.17.280, providing the appropriate "addressing note" with address ranges being on the final plat.*
49. *The plator shall include a note regarding the payment of street impact fees in accordance to SMC Chapter 14A.15. Specific language related to the payment of the street impact fees for 13 new lots shall be reviewed and approved by the City prior to final plat approval. The first two building permits submitted are exempt from this impact fee.*
50. *Pursuant to SMC Chapter 21A.105, fifty percent of the school impact fees have been paid at final plat for 13 new lots. The first two building permits submitted to the City are exempt from this impact fee. The remaining fifty percent of the school impact fees, plus an administrative fee, shall be paid prior to building permit issuance.*
51. *Consistent with SMC Chapter 14A.20, the plat is subject to parks impact fees which shall be paid at the time of building permit issuance for 13 new lots, together with an administrative fee. The first two building permits submitted to the City are exempt from this impact fee.*
52. *Pursuant to SMC Chapter 13.15, a surface water system development charge shall be paid at the time of building permit issuance for each new residential dwelling unit.*

53. *Tract A shall not be utilized for right-of-way dedication to serve future development of adjacent properties.*